

MINUTE ORDER

CASE NUMBER: CIVIL NO. 19-00116 LEK

CASE NAME: Sarah Vargas vs. City and County of Honolulu et al,

JUDGE: Leslie E. Kobayashi

DATE: 07/22/2021

COURT ACTION: EO: COURT ORDER DENYING DEFENDANTS CITY AND COUNTY OF HONOLULU AND THAYNE COSTA’S MOTION TO STRIKE OR EXCLUDE ALEX BIVENS’ REBUTTAL REPORT, REVISED OPINION, AND PLAINTIFF’S SUPPLEMENTAL DISCLOSURES, FILED 7/12/21 [DKT. NO. 300]

Defendants City and County of Honolulu and Thayne Costa (collectively “Defendants”) seek to strike the expert witness rebuttal and revised report dated July 9, 2021 (“7/9 Report”) submitted by Plaintiff Sarah Vargas (“Vargas”) and prepared by her expert witness, Alex Bivens, Ph.D. (“Dr. Bivens”). [Defendants’ Motion to Strike or Exclude Alex Bivens’ Rebuttal Report, Revised Opinion, and Plaintiff’s Supplemental Disclosures (“Motion”), filed 7/12/21 (dkt. no. 300).] Defendants argue that Dr. Bivens’s 7/9 Report is untimely filed and the Court should therefore strike it, but Vargas submits that “[r]ebutals were due ‘within thirty (30) days after the disclosure by the other party.’” [Plaintiff’s Memorandum in Opposition to Defendants’ Motion, filed 7/19/21 (dkt. no. 336), at 2 (quoting at Third Amended Rule 16 Scheduling Order, filed 12/18/20 (dkt. no. 227), at ¶ 11(b)).] Because Defendants’ expert report was received on June 14, 2021, and Dr. Bivens’s 7/9 Report was hand-delivered on July 9, 2021, Vargas submits that it was timely produced. The Court agrees.

Defendants also seek to strike Dr. Bivens’s 7/9 Report for failing to comply with Rule 26 of the Civil Rules of Procedure and for the reasons set forth in various other motions in limine that Defendants previously filed and incorporate by reference. [Mem. in Supp. of Motion at 2.] The Court declines to paw through Defendants’ various and sundry motions in limine and do their work for them regarding purported reasons for striking Dr. Bivens’s 7/9 Report. The Court will address each of these motions in limine as presented and not by being “incorporated by reference.”

For the foregoing reasons, Defendants’ Motion is hereby DENIED.

IT IS SO ORDERED.

Submitted by: Agalelei Elkington, Courtroom Manager